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PUBLIC UTILITIES  
COMMISSION

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FILED

**BEFORE THE PUBLIC UTILITIES COMMISSION**  
**OF THE STATE OF HAWAII**

In the Matter of the Application	)	DOCKET NO. 2009-0048
	)	
MOLOKAI PUBLIC UTILITIES, INC.	)	WEST MOLOKAI ASSOCIATION'S
	)	STATEMENT OF PROBABLE
For review and approval of rate increases;	)	ENTITLEMENT; CERTIFICATE OF
revised rate schedules; and revised rules.	)	SERVICE
_____	)	

**WEST MOLOKAI ASSOCIATION'S**  
**STATEMENT OF PROBABLE ENTITLEMENT**

Comes now West Molokai Association, Inc. ("WMA"), an intervenor party in the above-captioned proceeding, by and through its legal counsel, William W. Milks, to file "West Molokai Association's Statement of Probable Entitlement," pursuant to the Stipulated Pre-Hearing Schedule and Order, dated November 6, 2009.

**I. MPUI'S PROBABLE ENTITLEMENT.**

This scheduled filing is intended to assist the Commission in fulfilling the requirements of Subsections 269-16(c) and (d), Haw.Rev.Stat., which allow for a temporary increase in a utility company's permanent rates if no final order has been issued within nine months of the

filing of the utility's "completed application." The statutorily-established applicable standard to gauge the amount of the temporary increase is "probable entitlement and financial need."

Because MPUI is already receiving the benefits of a temporary increase over its permanent rates, due to the consequences of an Order in a different docket ( i.e. Docket No. 2008-0155), MPUI's claimed entitlement to a second temporary increase to its permanent rates raises legal issues.

MPUI's currently projected annual revenue with the 2008-0115 temporary rate increase is \$760,158 (Refer, Exhibit MPU-R-2, P. 1). That amount is very close to WMA's projected MPUI annual revenue requirement for \$918,018 if one were to remove WMA's allowances for depreciation (\$92,479) and net income (\$60,789). WMA's revenue requirement for MPUI for the test year on a break-even cash basis is \$764,750, which is only a \$4,592 difference from MPUI's current level of revenues. WMA considers that difference de minimus, for purposes of calculating an amount for "probable entitlement." Therefore, MPUI's existing rates should remain in place until a final decision is ordered.

WMA submits that MPUI's presently effective temporary rates generate \$760,158 of annual revenues, which approximates WMA's recommended prospective permanent revenue requirement without depreciation and net income. (Refer to Table 1, attached.) Therefore, because MPUI's current, temporary rate level approximates MPUI's "probable entitlement," the Commission need not reach the issue of the legal propriety of stacking two temporary increases, one on top of the other.

MPUI has shown entitlement to both of the proposed automatic adjustment clauses, one for electric power and the other for diesel fuel. However, because the appropriate base rates for electricity and diesel fuel need to be determined by the Commission prior to determining energy adjustment formulae, WMA suggests implementation of both adjustment clauses be deferred until a final decision and order.

## **II. WMA'S PROBABLE ENTITLEMENT.**

WMA introduced substantial credible evidence on two key components in this rate case, wholly consistent with the issues the Commission set for investigation in this case: (a) rate design, and (b) leakage of potable water. Neither MPUI nor the Division of Consumer Advocacy ("DCA") offered substantive analysis on rate design and lost and unaccounted for water ("L&U"). Due to the absence of substantive testimonies by MPUI and DCA on the topics rate design and L&U, WMA respectfully urges the Commission to re-design MPUI's rate structure consistent with WMA's testimony in this case.

### **A. Status Quo Rate Structure Cannot Continue.**

Existing rates were never established with the benefit of a cost-of-service study. MPUI's original rates became effective in 1981, when MPUI obtained certification as a public utility. Since then, specific costs were never determined for the purpose of pricing. Since 1981, MPUI's rates have been increased, but always on an "across-the-board" basis. MPUI now proposes an across-the-board 202% increase to its permanent rates.

During this 28 year period of time, certain components in MPUI's operations have changed dramatically:

- The original \$5 million-plus plant-in-service has been completely depreciated.
- A relatively new \$1.5 million water treatment plant came online in 2006, which is a low-capital cost, high operating cost facility;
- An expired operating agreement with the Hawaii Department of Agriculture continues in effect – causing MPUI to “internally consume” far more water than is reasonable;
- Most recently, MPUI's loss of approximately one-half of its demand for water has dramatically altered the utilization of MPUI's entire system.

As a result, there is now an urgent and compelling need to replace the antiquated manner of pricing MPUI's service. To spread whatever rate increase might be approved over the existing rate structure would make prospective rates unjust and unreasonable per se. Such rates would not cost-based; such rates would not even be cost-related.

**B. WMA's Proposed Rate Design is Cost-Based.**

WMA has undertaken an analysis of the various cost components of MPUI and allocated costs into two pools: a pool of fixed costs and a pool of variable costs. WMA proposes new customer categories to recover all reasonable costs, in four fundamental ways:

- (1) increasing the monthly customer charge;

- (2) increasing the number of customers responsible for paying the increased monthly customer charge;
- (3) proposing a cost-based usage charge, directly related to water consumption; and
- (4) urging two separate cost-based wholesale rates, which wholesale rates must differ due to very different cost profiles.

WMA's proposed rate design includes a feature which, will provide MPUI a substantial increase in revenues, by allowing recovery of a portion of MPUI's fixed costs from owners of unimproved residential parcels who have MPUI facilities fronting their properties.

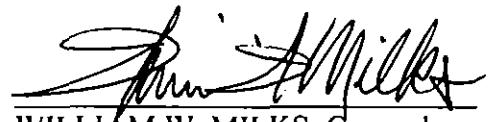
### III. SUMMARY.

If the Commission deems it necessary to grant any additional increases to the current level of MPUI's temporary rates, it can do so only by shifting current usage revenues to the deficient revenue requirement for fixed expenses. The level of MPUI's current usage rates, with the temporary increase in place, exceeds projected variable costs by approximately 73%. Recovery of a full revenue requirement needs to be transformed to rely much less on usage rates and to rely much more on monthly fixed charges. Also, this shift will stabilize MPUI's annual revenues. Table 2 illustrates the current inequities. Redesign of MPUI's rate structure is urgently needed and must be implemented at the time any increase is granted pursuant to Subsections 269-16(c) and (d)

Haw.Rev.Stat., because WMA's proposed re-design of MPUI's rate structure is the only reliable testimony sufficient to support any increase in rates.

DATED: Honolulu, Hawaii, March 10, 2010.

Respectfully Submitted,

A handwritten signature in black ink, appearing to read "William W. Milks", written over a horizontal line.

WILLIAM W. MILKS, Counsel  
for West Molokai Association

TABLE NO. 1

**COMPARATIVE ANALYSIS OF PARTIES' POSITIONS AND THE MAJOR AREAS OF DIFFERENCE**

Test Year Ending June 30, 2010

		(A)	(B)	(C)
Line No.	Description	MPUI R / T	DCA's D / T	WMA's D / T
	<b>REVENUE</b>			
1	Monthly Customer Charge	\$ 144,449	\$ 111,362	\$ 454,518 A
2	Water Usage Charge	1,050,985	746,075	419,900 A
3	Connection Fees	0		
4	Wholesale Sales to WOM			40,000 B
5	Late Fees	1,300	1,300	3,600
6	Total Operating Revenues	<u>1,196,734</u>	<u>858,737</u>	<u>918,018</u>
	<b>EXPENSES</b>			
7	Labor, Payroll Taxes & Employee Benefits	193,885	165,308	144,003
8	Electricity Expense	153,849	133,439	82,330 C
9	Fuel Expense	199,887	170,241	130,840 C
10	Department of Agri - Rental/Service	136,497	144,456	136,497
11		0		
12	Materials & Supplies	85,583	14,010	82,330
13	Affiliated Charges	9,600	9,600	9,600
14	Professional & Outside Services	14,137	14,137	14,137
15	Repairs & Maintenance	65,812	65,812	65,812
16		0		
17	Insurance	13,000	13,000	13,000
18	Regulatory Expense	125,794	55,000	14,268 D
19	General & Administrative	13,318	13,318	13,318
20	Total O & M Expense	<u>1,011,362</u>	<u>798,321</u>	<u>706,135</u>
21	Taxes Other Than Income	77,058	54,830	58,615
22	Depreciation	84,478	5,587	92,479
23	Income Taxes	0		0
24	Diff due to changing factors			0
25	Total Operating Expenses	<u>1,172,898</u>	<u>858,738</u>	<u>857,229</u>
26	Operating Income	\$ <u>23,836</u>	\$ <u>(1)</u>	\$ <u>60,789</u>
	<b>AVERAGE RATE BASE</b>			
27	Plant In Service	\$ 6,583,033	\$ 6,543,033	
28	Accumulated Depreciation	<u>(5,465,451)</u>	<u>(6,479,591)</u>	
29	Net Plant	1,117,582	63,442	
30	Customer Deposits	(10,691)	(10,691)	
31	ADIT	0		
32	HCGETC	0	(199,531)	
33	Working Capital	83,170	65,417	
34	Average Rate Base	\$ <u>1,190,061</u>	\$ <u>(81,363)</u>	
35	Return on Rate Base	2.00%		

## **COMPARATIVE ANALYSIS OF PARTIES' POSITIONS AND THE MAJOR AREAS OF DIFFERENCE**

- A. WMA proposes new rate structure, aligning fixed costs to fixed charges and variable costs to usage charges; MPUI and DCA propose an across-the-board increase over existing rates/
- B. WMA proposes to collect revenues equal to costs for the water MPUI delivers to its sister water utility company, Waiola O' Molokai, in order to eliminate MPUI's present subsidy to WOM. Due to current lack of data, WMA can only estimate the amount at \$40,000.
- C. WMA's projected energy (electric and fuel) costs are lower than MPUI and DCA's projections, based on WMA's refusal to pay for pumped and treated water lost due to leaks and unknown losses, which amount to a difference of \$140,566, as between MPUI and WMA. WMA does agree with MPUI that energy adjustment clauses are called for. DCA is opposed to automatic adjustment clauses for MPUI which, if adopted will result in more frequent, and costly MPUI rate applications.
- D. MPUI has spent/will spend \$378,000 for this rate case, which is nearly four times what lawyers and experts need to be paid. WMA proposes \$100,000 total, to be amortized over seven years, or \$14,268 per year.



**TABLE 2: WMA'S BREAKDOWN OF MPUI'S REVENUE REQUIREMENT INTO FIXED COSTS & VARIABLE COSTS MAKES A COMPELLING CASE FOR REDESIGNING MPUI'S RATE STRUCTURE**

<u>MPUI</u>	<u>FIXED MO. CHARGE</u>	<u>USEAGE REVENUE</u>	<u>USEAGE RATE</u>	<b>PROPOSED RATES BASED ON COSTS?</b>	<b>COST OF AVE. MO. USEAGE<sup>1</sup></b>	<u>MONTHLY BILL</u>
Permanent Rates	\$11.25		\$3.18	<b>NO</b>	\$129.27	--
Temporary Rates	11.25	\$679,968	6.04	<b>NO</b>	245.52	--
Proposed Rates	34.00		9.61	<b>NO</b>	390.65	\$424.65
Rates In Rebuttal Testimony	?	973,095	9.36	<b>NO</b>	380.49	--
 <u>WMA</u>						
WMA's Direct Testimony <sup>2</sup>	49.50	419,900	3.50	<b>YES</b>	142.28	\$191.78
Probable Entitlement	43.00	419,900	3.50			
 <u>DCA</u>						
Direct Testimony	?	679,948	6.60	<b>NO</b>	270.73	--

<sup>1</sup> AVERAGE = 103,900 TG/12 months/213 users = 40.65 TG/MO/average user.

<sup>2</sup> The fixed monthly charge shown is for a stand-alone residential unit. WMA proposes nine (9) monthly facility charges: two wholesale, five retail and two public entities. Insufficient information is available to compute the wholesale rates and rate for 178 fire hydrants.

**CERTIFICATE OF SERVICE**

The requisite number of copies of the foregoing "West Molokai Association's Statement of Probable Entitlement," are to be served by U.S. Mail, with prepaid postage, or to be hand-delivered, as indicated, the same date as the filing of the original and eight copies with the Commission.

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DATED: Honolulu, Hawaii, March 10, 2010.



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